



PATENT
JUL 09 2004 ATTORNEY DOCKET NO. 01997/198006

Certificate of Mailing: Date of Deposit: October 6, 2003

(CENTER TOWER)

I hereby certify under 37 C.F.R. § 1.8(a) that this correspondence is being deposited with the United States Postal Service as **first class mail** with sufficient postage on the date indicated above and is addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Alma Woodberry

Printed name of person mailing correspondence

Alma Woodberry

Signature of person mailing correspondence

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: H. Robert Horvitz et al. Art Unit: 1632
Serial No.: 08/984,178 Examiner: Ram Shukla
Filed: December 3, 1997
Title: CLONING SEQUENCING AND CHARACTERIZATION OF TWO
CELL DEATH GENES AND USES THEREFOR

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW NOTICE OF ABANDONMENT

Under 37 C.F.R. § 1.181, applicant hereby petitions to have the Notice of Abandonment that was mailed in connection with the above-captioned case on August 7, 2003, withdrawn. A copy of the Notice is enclosed. According to the Notice, the application was abandoned under 37 C.F.R. § 1.135 for applicant's failure to reply to a Notice of Allowance that was mailed on April 2, 2003. However, as explained below, no Notice of Allowance was received by our office in connection with the above-referenced application.

The undersigned, applicant's attorney of record, first became aware of the abandonment on August 11, 2003, upon receipt of the Notice of Abandonment and

submits that this petition to withdraw the Notice is being promptly submitted as required by 37 C.F.R. § 1.8(b)(1).

Applicants note that a review of Clark & Elbing LLP's computerized docketing records and the file jacket indicates that the Notice of Allowance was never received. On August 21, 2003, in a telephone conference with Examiner Shukla, applicants requested copies of the Notice of Allowance and Notice of Allowability, which were received on August 25, 2003. A review of these documents showed that they were mailed to the incorrect mailing address.

Applicants note that the Office was promptly notified of a change in correspondence address in a Preliminary Amendment filed on August 23, 2002, which called attention to the fact that a change of address was being made and requested that all future correspondence be mailed to a new correspondence address.

The following documents are submitted under 37 C.F.R. § 1.8(b)(2) as proof that no Notice of Allowance was received:

1. A copy of the redacted docket record for July 2, 2003, showing all replies docketed for July 2, 2003; and
2. A Declaration of Kristina Bieker-Brady, Ph.D supporting the foregoing facts.

Also enclosed are original signed declarations under 37 C.F.R. § 1.8(b)(3) by:

1. Guy E. Beardsley, attesting on the basis of personal knowledge that no reply was docketed for July 2, 2003.

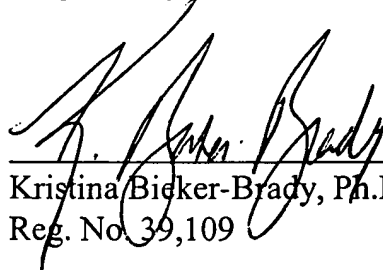
In addition, a Preliminary Amendment, filed on August 23, 2002, is submitted as evidence that a change of correspondence address was promptly filed.

Applicant requests that the Notice of Abandonment be now withdrawn.

If there are any charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

Date: October 6, 2003



Kristina Bieker-Brady, Ph.D.
Reg. No. 39,109

Clark & Elbing LLP
101 Federal Street
Boston, MA 02110
Telephone: 617-428-0200
Facsimile: 617-428-7045

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 08/984,178 | 12/03/1997 | H.ROBERT HORVITZ | 01997198006 | 1856 |

21559 7590 08/07/2003
CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

RECEIVED

AUG 11 2003

CLARK & ELBING LLP

EXAMINER

SHUKLA, RAM R

ART UNIT PAPER NUMBER

1632

DATE MAILED: 08/07/2003

p # 31

Please find below and/or attached an Office communication concerning this application or proceeding.

ACTION DUE Pet. to Revive
DUE DATE 8.7.04
INITIALS mh



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

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| APPLICATION NUMBER | FILING DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NO. |
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08/984, 178

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| EXAMINER |
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| ART UNIT | PAPER NUMBER |
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DATE MAILED:

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NOTICE OF ABANDONMENT

This application is abandoned in view of:

- ☐ Applicant's failure to timely file a proper response to the Office letter mailed on _____.
- ☐ A response (with a Certificate of Mailing or Transmission of _____) was received on _____, which is after the expiration of the period for response (including a total extension of _____ month(s)) which expired on _____.
- ☐ A proposed response was received on _____, but it does not constitute a proper response to the final rejection.

(A proper response to a final rejection consists only of: a timely filed amendment which places the application in condition for allowance; a Notice of Appeal; or the filing of a continuing application under 37 CFR 1.62 (FWC).

- ☐ No response has been received.
- ☒ Applicant's failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance.

- ☐ The issue fee (with a Certificate of Mailing or Transmission of _____) was received on _____.
- ☐ The submitted issue fee of \$_____ is insufficient. The issue fee required by 37 CFR 1.18 is \$_____.
- ☐ The issue fee has not been received.

- ☐ Applicant's failure to timely file new formal drawings as required in the Notice of Allowability.
- ☐ Proposed new formal drawings (with a Certificate of Mailing or Transmission of _____) were received on _____.
- ☐ The proposed new formal drawings filed _____ are not acceptable.
- ☐ No proposed new formal drawings have been received.

- ☐ The express abandonment under 37 CFR 1.62(g) in favor of the FWC application filed on _____.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a) upon the filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ The reason(s) below:

**ABANDONMENT
CONTACT PERSON IS:
TOM HAWKINS**

PATENT
ATTORNEY DOCKET NUMBER: 01997/198006

the date of receipt of:

at Horvitz et al.

.178

ar 3, 1997

SEQUENCING AND CHARACTERIZATION OF TWO
ATH GENES AND USES THEREFOR

☒ Declaration of Guy Pages: 2
☐ Assignment & Cover Sheet Pages: 2
☐ Change of Address Pages: 2
☒ Preliminary Amendment (copy) Pages: 2
☐ IDS Pages: 2
☐ Form PTO-1449 Pages: 2
☐ Cited References Number: 2
☐ Sequence Listing Pages: 2
☐ Sequence Statement Pages: 2
☐ Sequence Diskette Pages: 2
☒ Other Notice of Abandonment Pages: 2
Notice of Abandonment Pages: 2
Record Pages: 39
a Breker-Brady, Ph.D. Pages: 3

Date: 10/6/03

PROSECUTION

PATENT
ATTORNEY DOCKET NUMBER: 01997/198006

The U.S. PTO date stamp sets forth the date of receipt of:

Applicant/Patentee: H. Robert Horvitz et al.

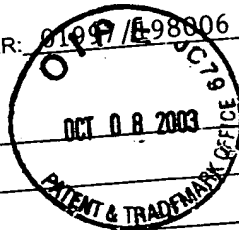
Serial/Patent Number: 08/984,178

Filed/Issued: December 3, 1997

Title: CLONING SEQUENCING AND CHARACTERIZATION OF TWO
CELL DEATH GENES AND USES THEREFOR

☐ Transmittal Letter Pages: _____
☐ Notice to File Missing Parts Pages: _____
☐ Reply to Missing Parts Pages: _____
☐ Reply to Office Action Pages: _____
☐ Petition for Extension Pages: _____
☐ Notice of Appeal Pages: _____
☐ Appeal Brief Pages: _____
☐ Drawings Formal/Informal Pages: _____
☐ M-Fee Payment Pages: _____
☐ Issue Fee Payment Pages: _____
☒ Check \$: _____
☐ Other _____
☒ Declaration of Guy Pages: 2
☐ Assignment & Cover Sheet Pages: 2
☐ Change of Address Pages: 2
☒ Preliminary Amendment (copy) Pages: 2
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☒ Other Notice of Abandonment Pages: 2
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a Breker-Brady, Ph.D. Pages: 3

Atty/Secy KRB/MHE/aw Client/Matter Name:



Date: 10/6/03